

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
 v.) CRIMINAL NO. 03cr10370-DPW
)
 JOSE VEZGA)

DEFENDANTS' JOINT NOTICE CONCERNING PROBLEMS WITH APEX

____ Page Kelley, counsel for Jose Vezga, joined by Debra DelVecchio, counsel for co-defendant Gary Newell, respectfully submit this report concerning recordings available at APEX as ordered by the Court in its Supplemental Order dated June 29, 2004.

1. To date, counsel have received 35 ninety-minute audiotapes from APEX; fourteen videotapes; and five Cdroms which contain both the audio portion and written transcripts for thousands of telephone conversations. It appears from looking at the government's updated index of the materials provided to APEX, dated July 1, 2004, that at this time counsel have all the materials the government has provided to APEX.

2. Jose Vezga is a minor participant in the alleged conspiracy. The critical event tying Mr. Vezga to the conspiracy is an alleged visit he made with Kurt Walter, a co-defendant, to a cooperating witness's home on September 29, 2003. According to materials provided by the government, the visit was videotaped.

3. In a letter to the government dated June 10, 2004, counsel for Mr. Vezga specifically requested the videotape of the September 29 incident. On July 1, 2004, counsel received a copy of a letter sent to APEX by the government, in which the government provided APEX with the

video of this incident. In addition, on July 1 the government provided APEX with an audiotape dated June 29, 2003. Counsel promptly ordered the tapes from APEX.

4. Counsel for Mr. Vezga received the videotape and audiotape today, July 8, 2004. The audiotape is audible. Unfortunately counsel discovered today that the VCR in the Federal Defender's Office is broken. Counsel therefore requests an additional week to view this tape to make sure that it is usable.

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